



SUGAR LAND DEVELOPMENT CORPORATION

AGENDA REQUEST

AGENDA OF:	07-06-10	AGENDA REQUEST NO:	V-A
INITIATED BY:	REGINA MORALES	RESPONSIBLE DEPARTMENT:	ECONOMIC DEVELOPMENT
PRESENTED BY:	REGINA MORALES	DEPARTMENT HEAD:	REGINA MORALES, <i>RM</i> DIRECTOR OF ECONOMIC DEVELOPMENT
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	PROPOSED CHANGES TO SUGAR LAND DEVELOPMENT CORPORATION BYLAWS RESOLUTION NO. 2010-06-03 (SLDC REVISED BYLAWS)		
EXHIBITS:	SLDC BYLAWS SHOWING REVISIONS RESOLUTION NO. 2010-06-03 (SLDC REVISED BYLAWS)		
CLEARANCES		APPROVAL	
LEGAL:	JOE MORRIS, CITY ATTORNEY <i>JCM for TDM</i>	DIRECTOR:	REGINA MORALES <i>RM</i>
PURCHASING:	N/A	ASSISTANT CITY MANAGER:	N/A
BUDGET:	N/A		
BUDGET			
EXPENDITURE REQUIRED: \$		N/A	
CURRENT BUDGET: \$		N/A	
ADDITIONAL FUNDING: \$		N/A	
RECOMMENDED ACTION			
Review and discuss Sugar Land Development Corporation Bylaws. Approve Resolution 2010-06-03 adopting the amended Bylaws for the Sugar Land Development Corporation.			

EXECUTIVE SUMMARY

On May 4, 2010 the Sugar Land Development Corporation Board approved a set of bylaw provisions that codified previous amendments and agreements with the City as well as provided revisions that more closely align the Corporation's governing documents with its current practices. However, due to the growing need to expedite large-scale projects, in addition to revising the SLDC bylaws staff has also continued to examine both the SLDC and the Sugar Land 4B Corporation's statutory powers and structures to ensure that both Boards have all of the flexibility afforded them by state statute to expedite funding potential projects, such as the future minor league baseball stadium.

The recent decision to utilize design build construction delivery method and the extremely aggressive stadium time line brought to light that language in the recently approved bylaws narrowed the development corporation's abilities somewhat. Based on the additional review of the adopted bylaws for the SLDC and the proposed bylaws for the SL4B from this perspective it has become clear that despite correcting many of the redundancies of the Corporation's governing documents and streamlining its operations, there remained one area of the bylaws that would benefit from an additional revision, so as to better preserve the Board's flexibility with funding significant and time-sensitive projects like the ballpark or concert venue.

When the revised SLDC bylaws were approved in May, staff and the City Attorney did not anticipate the challenges associated with constructing these types of projects with specific deadlines; however, in order to maintain all of the privileges afforded the Corporation and to fully insulate it from any unforeseen issues in the future, one additional edit is now being recommended by the City Attorney.

In Article 6: Section 6.06. Contracts and Purchases, the previous language (shown below struck-through) had indicated that the Corporation would follow the same processes, policies and procedures as the City relating to City contracts, purchases, and expenditures. This language while generally representative of current practices, in retrospect may actually be more restrictive than necessary. Due to its legal status the SLDC is granted additional privileges with respect to contracting and funding projects that are not available to the City and as such is not required to follow City purchasing policies or procedures. This flexibility, unfortunately, is not entirely reflected in the existing language.

Section 5.01 of the existing bylaws does however state that the Corporation will follow City procedures unless the parties agree otherwise. According to the City Attorney's analysis, this flexible wording essentially permits the Corporation to directly contract with potential third party vendors should it choose to do so since the SLDC has the authority to contract directly in the absence of any prohibition.

In order to ensure this right of the Board is clearly understood and preserved the City Attorney has suggested that the previous language in Section 6.06 be revised to instead more explicitly and succinctly clarify that **"the Board or general manager acting within their respective authority, may contract directly for goods or services for the Corporation without following the requirements of State law applicable to the City or City acquisition procedures."** This change plainly states that the Corporation may choose to exclude itself from the bidding requirements and procedures that the City is required to follow, thus preserving the Corporation's full legal privileges and flexibilities.

In addition to the change to Section 6.06, the City Attorney has made one additional edit in Section 5.03. City Administration Projects and Activities. This clarification distinguishes between contracts that are entered into by the City and reimbursed by the SLDC and contracts that are entered into directly by the SLDC.

SLDC BYLAWS SHOWING REVISIONS

**CORPORATE BYLAWS OF THE
SUGAR LAND DEVELOPMENT CORPORATION,
AS AMENDED AND RESTATED
(Effective _____2010)**

These bylaws govern the affairs of the Sugar Land Development Corporation, a public instrumentality and a non-profit corporation created under the Development Corporation Act (Local Government Code, Chapter 501 et. seq.)

ARTICLE I. GENERAL PROVISIONS

1.01 Purpose. The purpose of the Corporation is to promote, assist, and enhance economic development activities for the benefit of the City.

1.02. Definitions. In these bylaws:

Act means the Development Corporation Act (Local Gov't. Code, Chapter 501 et. seq.).

Board means the Board of Directors of the Corporation.

City means the City of Sugar Land, Texas.

City Council means the City's City Council.

Corporation means the Sugar Land Development Corporation.

Project means a project, as that term is defined by the Act, that the Corporation is authorized to undertake under the Act.

1.03. Approval of Bylaws. These bylaws and amendments to these bylaws are not effective until approved by the Board.

ARTICLE II. BOARD OF DIRECTORS

2.01. Powers. The Board may exercise all powers authorized by the Act, the Corporation's articles of incorporation, and these bylaws.

2.02. Number and Qualifications. The seven members of the City Council serve as the board of directors.

2.03. Term. After a council member assumes office, the council will appoint the member to serve as a director for a term that is concurrent with the council member's term of office. If a council member resigns from the council before the expiration of his or her term, the council may remove the member from the board or allow the member to continue to serve as a director until the succeeding council member is appointed to the board.

ARTICLE III. OFFICERS

3.01. Election of Officers. Each year, the Board will elect a president and vice-president for the Corporation for a one-year term. Each officer holds the office until a successor is elected.

3.02. President. The president presides at all Board meetings and performs any other duties required by these bylaws or the Board. The president may appoint directors and other persons to serve on standing or ad hoc committees to make recommendations to the Board.

3.03. Vice-President. The vice-president performs the duties of the president if the president is absent or is unable or refuses to act, and any other duties as assigned by the Board.

3.04. Secretary. The City's city secretary serves as the Corporation's secretary. The secretary is the custodian of the Corporation's records and keeps all votes and minutes of Board meetings. The secretary will give notice of all Board meetings and performs other duties as directed by the president, the general manager, or as required by these bylaws. The secretary may designate another City employee to perform the duties of the secretary from time-to-time.

3.05. Treasurer. The City's city manager will designate a City employee to serve as the Corporation's treasurer. The treasurer will perform the duties specified in these bylaws. The treasurer may designate another City employee to perform the duties of the treasurer from time-to-time.

3.06. General Manager.

(a) The City's city manager serves as general manager and chief administrative officer of the Corporation. The general manager is responsible for the day-to-day operations of the Corporation and performs any other responsibilities or duties assigned by the Board. The general manager may participate in any discussions of the Board, but may not vote. An assistant city manager may perform the duties of the general manager as assigned by the city manager or if the city manager is absent or unable to perform the duties of the general manager.

(b) Except as otherwise provided by law or these bylaws, the general manager has the same powers and authority to act on behalf of the Corporation in matters relating to the Corporation as the city manager has in matters relating to the City, including the following:

- (1) To sign a contract, funding resolution, or any other document approved by the Board;

- (2) To sign a contract, funding resolution, or any other document providing for the expenditure of corporate funds that have been approved in the budget, without Board approval, in an amount that the city manager would be authorized to approve for the City without city council approval; and
- (3) To sign checks, orders, and drafts for the payment of obligations incurred under any contract, funding resolution, or documents approved in compliance with these Bylaws.

ARTICLE IV. MEETINGS

4.01. Calling Meetings. Board meetings may be called at the request of the City's mayor, the general manager, the president or vice-president, or upon the written request of at least three directors. All Board meetings and deliberations will comply with the Texas Open Meeting Act. All meetings will be held within the City's corporate limits.

4.02. Quorum and Action. Four directors are a quorum for the transaction of business. The Board may act by a majority vote of the directors present and voting at a meeting.

4.03. Procedures. The Board may adopt procedures for the conduct of its meetings or may generally follow the procedures adopted by city council in the conduct of its meetings.

ARTICLE V. FUNDING AND ADMINISTRATION OF PROJECTS AND ACTIVITIES

5.01. Applicable Procedures. The City and the Corporation will follow the procedures contained in this article in administering and funding Corporate Projects and activities authorized under the Act, unless the City and Corporation agree otherwise for specific Projects or activities.

5.02. Funding of Projects and Activities.

(a) The City may request the Corporation fund a Project or activity that the Corporation is authorized to fund by making a written request to the Board that contains a description of the Project or activity, its estimated cost, the proposed schedule for implementation, and any other information requested by the Board.

(b) If the Board agrees to approve the City's request to fund a Project or activity for which the Board has appropriated funds for that purpose, the Board will adopt a Funding Resolution that authorizes the City to pay the costs of the Project or activity from the Corporation's funds.

5.03. City Administration Projects and Activities. The City will be solely responsible for administering Projects and activities funded by the Corporation. In awarding contracts in the name of the City to implement a Project or activity funded by the Corporation, the City will award, supervise, and administer the contracts following the same State laws and City policies used to award, supervise, and administer contracts funded by the City.

5.04. Billing and Payment. The City will bill and the Corporation will pay for the costs for the Project or activity as those costs are billed to or become payable by the City. The City will not bill the Corporation for any Project or activity in excess of the amount approved by the Board in the funding resolution.

5.05. Funding for Promotional Activities. The Corporation may spend no more than ten percent of its annual revenues for promotional activities.

ARTICLE VI. FINANCE

6.01. Fiscal Year. The Corporation's fiscal year is the same as the City's fiscal year.

6.02. Administration of Funds. The City, acting through the treasurer, will administer the Corporation's accounts, revenues, expenditures, deposits, investments, and funds in accordance with these bylaws and the laws, regulations, and policies applicable to City funds. The treasurer will, as requested by the president or the Board, report to the Board on the financial condition of the Corporation.

6.03. Investments. For all financial matters, including the investment of the Corporation's funds, the Corporation is considered a component unit of the City. The City Council has, to the full extent allowed by law, including the Public Funds Investment Act, complete control over the investment of the Corporation's funds. The investment policies and procedures adopted by the City Council for City funds apply to the Corporation's funds.

6.04. Audits. The City will cause the books, records, and accounts of the Corporation to be audited by an independent certified accounting firm at least once each fiscal year as a component unit of the City. The annual audit of the Corporation, as a component unit of the City, will be submitted to the Board for its review.

6.05. Budget. Prior to the beginning of each fiscal year of the Corporation, the Board will adopt a proposed budget of expected revenues and expenditures for the next fiscal year.

6.06. Contracts and Purchases. To be effective, the Board must approve any contract, funding resolution, purchase order, or other documents or action that provides for the expenditure of corporate funds in an amount that exceeds the amount the general manager is authorized to approve. The Board or general manager acting within their respective authority, may contract directly for goods or services for the Corporation without following the requirements of State law applicable to the City or City acquisition procedures. ~~The Board and the Corporation's officers and employees will comply with the same laws, policies, and procedures that are applicable to the City relating to City contracts, purchases, and expenditures, except as otherwise provided by law or these bylaws.~~

6.07. Conflicts of Interest. In transactions relating to the Corporation, directors will follow and are bound by the requirements and limitations of Chapter 171 of the Local Government Code, as amended, and the City's Rules of Ethical Conduct.

6.08. Bonds. Corporate bonds will not be issued until and unless approved by the City Council in advance.

ARTICLE VII. CITY SUPPORT SERVICES

7.01. Supplies and Facilities. The City will provide supplies, materials, and facilities to the Corporation, including office space, meeting rooms, and office, telephone and communications equipment, and stationery as requested or needed by the Corporation in its day-to-day activities.

7.02. Administrative Services. The City will provide general administrative services to support the operations of the Corporation, including the services of the general manager, treasurer, and secretary, as

specified in these bylaws. The administrative services include arranging meetings, posting agendas, preparing documents, maintaining records, administering contracts, and providing similar administrative services required for the Corporation.

7.03. Financial and Legal Services. The City will provide financial services to the Corporation as specified in these bylaws or as required by law. The City will provide general legal services to the Corporation, including advice, the review and preparation of resolutions, contracts, and other legal documents or records for the Corporation.

7.04. Economic Development Employees. The City will hire and retain one or more employees to promote economic development activities or opportunities in support of the operations of the Corporation.

7.05. City Compensation for Support Services.

(a) The City will present to the Board for approval in the Corporation's budget the City's estimated annual cost for the City to provide all support services to the Corporation. The Corporation will pay the costs quarterly to the City based on the annual costs approved in the Corporation's budget.

(b) During the Corporation's budget year, the City and Corporation may agree that the City will provide and the Corporation will budget and pay for additional support services not anticipated as part of the annual budget estimate previously submitted by the City and approved by the Corporation.

ARTICLE VIII. INDEMNIFICATION AND LIABILITY

8.01. Corporation to Indemnify. As provided in the Act, the Corporation may indemnify any director or officer or former director or officer of the Corporation for expenses and costs (including attorney's fees) actually and necessarily incurred by the officer or director in connection with any claim asserted against the officer or director by reason of the person being or having been a director or officer, except for matters in which the officer or director is guilty of negligence or misconduct in respect of the matter in which indemnity is sought.

8.02. Liability Coverage. The City or Corporation will provide liability coverage by insurance policies, self-funded coverage, or coverage provided under an interlocal agreement with other political subdivisions, on behalf of any person who is or was a director, officer, or employee of the Corporation to insure the person against any liability asserted against the person by reason of the person being or having been a director, officer, or employee of the Corporation.

RESOLUTION NO. 2010-07-04

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUGAR LAND DEVELOPMENT CORPORATION APPROVING AMENDMENTS TO THE CORPORATION'S BYLAWS.

WHEREAS, the bylaws of the Sugar Land Development Corporation (SLDC) were originally adopted in 1993; and

WHEREAS, City staff has completed a comprehensive review of the SLDC's bylaws and is recommending amendments be made to reflect current corporate practices and procedures, improve administration, and delete unnecessary provisions; and

WHEREAS, the Board of Directors and the City of Sugar Land City Council must approve the amended bylaws before the bylaws are effective; NOW, THEREFORE,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE SUGAR LAND DEVELOPMENT CORPORATION:**

Section 1. That it approves the attached Corporate Bylaws of the Sugar Land Development Corporation as Amended and Restated.

Section 2. The amended bylaws are effective on the date approved on the latest date of the dates approved by the SLDC Board of Directors and the City of Sugar Land City Council, as evidenced by this Resolution and the Resolution of the City of Sugar Land City Council.

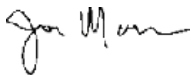
APPROVED on _____, 2010.

Thomas Abraham, President

ATTEST:

Donald Smithers, Secretary

Reviewed for Legal Compliance:



Attachment: Corporate Bylaws of the Sugar Land Development Corporation as Amended and Restated.

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8.02. Liability Coverage. The City or Corporation will provide liability coverage by insurance policies, self-funded coverage, or coverage provided under an interlocal agreement with other political subdivisions, on behalf of any person who is or was a director, officer, or employee of the Corporation to insure the person against any liability asserted against the person by reason of the person being or having been a director, officer, or employee of the Corporation.